

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

NYANDIET N MAGANG
Claimant

APPEAL NO: 17A-UI-10400-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PINNACLE HEALTH FACILITIES XVII L
Employer

OC: 09/10/17
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 6, 2017, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 30, 2017. The claimant participated in the hearing. Susan Robinson, Director of Nursing, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a PRN CNA for Pinnacle Health Facilities XVII L from April 13, 2016 to August 10, 2017. The employer determined she voluntarily quit her employment by failing to call or show up for work for three consecutive workdays.

The claimant was a no-call/no-show March 25, 2017, and the employer issued her a written warning March 29, 2017, and reduced her schedule to three days per week due to her attendance. The claimant signed the warning. She was a no-call/no-show May 19, 2017, and the employer issued her a written warning May 23, 2017, and told her it was her last chance to prove herself with regard to her attendance. The claimant was absent due to injury June 22, 2017, and the employer issued her a counseling letter because since May 23, 2017, she was absent two days and was tardy on eight occasions. On July 3 and July 17, 2017, the claimant was a no-call/no-show and the employer reviewed the attendance policy with her following both of those dates. The claimant was eventually switched to a PRN employee (no date provided).

The claimant was scheduled to work August 7, 8, 9 and 10, 2017. She was a no-call/no-show August 8, 9 and 10, 2017, and the employer determined she voluntarily quit her position. The claimant denies that she was a no-call/no-show stating instead she told the scheduler she could not work those three days.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

While the claimant denies she was a no-call/no-show August 8, 9 and 10, 2017, she also denied she was a no-call/no-show March 25, May 19, July 3 and July 17, 2017, despite the fact she received and signed warnings about those absences. Consequently, the administrative law judge did not find the claimant's testimony persuasive.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days, in violation of the employer's policy, she is considered to have voluntarily left her employment without good cause attributable to the employer. Therefore, benefits are denied.

DECISION:

The October 6, 2017, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn